



Ian Shapiro
+1 212 479 6441
ishapiro@cooley.com

Via ECF

December 6, 2016

Judge Kiyo A. Matsumoto
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Martin Shkreli, No. 15-CR-00637 (KAM)

Dear Judge Matsumoto:

We are writing pursuant to the Court's order of November 30th (Dkt. 120) to let the parties know whether Retrophin is willing to waive the attorney-client privilege on additional topics relevant to the Superseding Indictment.

Retrophin is willing to waive the privilege on additional topics relevant to the Superseding Indictment in the interest of overcoming the parties' impasse over the scope of Katten's production in response to Mr. Shkreli's subpoena dated October 27, 2016 (Dkt. 103). Retrophin is only willing to waive the privilege on the following topics if the parties agree that Retrophin's waiver on these topics will not be used by the parties to argue that the scope of the waiver exceeds the subject matter of the specific topics we have specifically identified. Provided the parties can agree on that condition, then Retrophin will waive the privilege with respect to communications between Katten and the company that relate to the following additional topics:

1. the \$900,000 promissory note between Retrophin and MSMB Healthcare;
2. the Desert Gateway merger;
3. the Company's litigation against Timothy Pierotti;
4. Retrophin's settlement of claims by MSMB vendors; and
5. the proposed settlement of Kevin Mulleady's claim.

When Mr. Shkreli returns Katten communications relating to Retrophin on January 6th, Retrophin will produce by January 20th a privilege log identifying the documents over which it asserts the attorney-client privilege, and will produce the documents that fall within the scope of this expanded waiver.



Judge Kiyo A. Matsumoto
December 6, 2016
Page Two

Retrophin does not intend to waive, and continues to assert, its attorney-client privilege with respect to Katten's communications with Retrophin over all other subjects, as well as its attorney-client privilege with any other lawyer concerning any subject.

Respectfully Submitted,

A handwritten signature in black ink that reads "Ian Shapiro (NAF)".

Ian Shapiro

cc: Counsel for all parties (via ECF)